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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/035,612	03/05/1998	KEIJI YUZAWA	SONYJP-3.0-0	5017

530 7590 03/19/2002
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

EXAMINER

BROWN, RUEBEN M

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 03/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory ActionApplication No.
09/035,612Applicant:
YuzawaExaminer
Reuben BrownArt Unit
2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Feb 15, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 706.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for the reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on Feb 15, 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☐ The proposed amendment(s) will not be entered because:
- a) ☐ they raise new issues that would require further consideration and/or search. (See NOTE below);
 - b) ☐ they raise the issue of new matter. (See NOTE below);
 - c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - d) ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: See Attached, Advisory Action.

4. ☐ Applicant's reply has overcome the following rejection(s):

5. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claim(s).

6. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because:

7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 3, 4, and 7-26

9. ☐ The proposed drawing correction filed on _____ a) ☐ has b) ☐ has not been approved by the Examiner.

10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

11. ☒ Other: See Attached 892 and reference

Art Unit: 2611

ADVISORY ACTION

1. Applicant's arguments filed 2/15/2002 have been fully considered but they are not persuasive.

On page 8, applicant asserts that the proposed amended language of the claims is based on the recitation of subject matter found in claims 17 & 25. Nevertheless, the proposed claim language of independent claim 9 & claim 19, reciting, "detecting operating system software", represents a new issue. Claims 17 & 25, recite that the "program software includes at least one of a basic program or an application program", as per the amendment filed 1/14/200.

First of all, since the claimed features are written in the alternative, examiner is only required to show prior art comprising either one of the 'basic program' or 'application program', in order to meet the claims. Clearly, Kostrecki discloses transmission/reception and detection of application programs, see col. 30, lines 10-46. Applicant admits the above on page 10, lines 9-11. Thus claims 17 & 25 are met by Kostrecki.

The proposed amendment of an 'operating system', then clearly represents a new issue, since an 'operating system' is a term of art, and is generally different from an 'application program'. Examiner cites the Microsoft Computer Dictionary with definitions of operating system and an application program.

Art Unit: 2611

Applicant argues on page 10, lines 4-8 that, “the Kostrecki reference fails to disclose or suggest that *operating system* software is detected and/or received... does not disclose or suggest extracting the detected *operating system* software from received digital signals as claimed”, [emphasis added]. Examiner points out that the claimed language of record, recited in claims 9 & 19 and claims 17 & 25, do not require receiving an “operating system”.

Furthermore, even if applicant were to assert that the claimed ‘basic program’ is equivalent to an ‘operating system’, as pointed out above, examiner is only required to meet either ‘basic program’ or ‘application program’. Kostrecki teaches reception of an ‘application program’. Nevertheless, examiner asserts that the recitation of a ‘basic program’ is not necessarily equivalent to an ‘operating system’. A ‘basic program’ is broad enough to read on a computer program written in the Basic computer language, which may or may not be an ‘operating system’.

Application/Control Number: 09/035,612

Art Unit: 2611

Any response to this action should be mailed to:

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Or:

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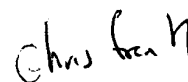
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (703) 305-2399. The examiner can normally be reached on Monday thru Friday from 830am to 430pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380. The fax phone number for this Group is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.


CHRIS GRANT
PRIMARY EXAMINER